

**REMARKS**

In the Office Action, the Examiner rejects claims 1, 3-11, and 46-51 under 35 U.S.C. § 103(a) as unpatentable over PETROPOULOS (U.S. Patent Application Publication No. 2005/0027670) in view of THOMAS (U.S. Patent No. 6,401,118). Applicants traverse this rejection.<sup>1</sup>

By way of the proposed amendment, Applicants propose amending claims 1 and 6 to improve form. No new matter has been added by way of the amendment. Claims 1, 3-11 and 46-51 are pending.

Claims 1, 3-11, and 46-51 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over PETROPOULOS in view of THOMAS. Applicants respectfully traverse this rejection.

Amended independent claim 1 recites a method that is performed by a device. The method includes receiving, by a processor of the device, a query, from a client device, that includes one or more terms; determining, by the processor, whether the query is a commercial query by: determining, by the processor, whether the one or more terms of the query, in any particular order, matches a commercial query pattern in a list of commercial query patterns, and identifying, by the processor, the query as a commercial query when the one or more terms of the query, in any particular order, matches the commercial query pattern in the list of commercial query patterns; processing, by the processor, the query in a first manner when the query is not determined to be a commercial query, where processing

---

<sup>1</sup> As Applicants' remarks with respect to the Examiner's rejections overcome the rejections, Applicants' silence as to certain assertions by the Examiner in the Office Action or certain requirements that may be applicable to such assertions (e.g., whether a reference constitutes prior art, reasons for modifying a reference and/or combining references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or that such requirements have been met, and Applicants reserve the right to dispute these assertions/requirements in the future.

the query in a first manner includes ranking documents in a first manner; and processing, by the processor, the query in a second, different manner in response to determining that the query is a commercial query, where processing the query in a second manner includes ranking documents in a second, different manner. PETROPOULOS and THOMAS, whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, PETROPOULOS and THOMAS do not disclose or suggest determining, by a processor, whether a query is a commercial query by determining whether one or more terms of the query, in any particular order, matches a commercial query pattern in a list of commercial query patterns, and identifying, by the processor, the query as a commercial query when the one or more terms of the query, in any particular order, matches the commercial query pattern in the list of commercial query patterns. The Examiner relies on paragraphs 0071 and 0080 of PETROPOULOS and column 13, line 58 – column 14, line 11; and column 16, lines 55-65 of THOMAS as allegedly disclosing a similar feature (final Office Action, pg. 3). Applicants respectfully disagree with the Examiner's interpretation of PETROPOULOS and THOMAS.

At paragraph 0071, PETROPOULOS discloses:

It should be appreciated that the search results are designed to accomplish the end goal of the search engine. These goals may include, but are not limited to: relevance, revenue, and diversity of results. The process flows (200, 300) may also be configured to change the outcome based on varying considerations. For example, if the query is determined to be focused on educational research, the process may be configured to promote non-commercial material. If the intent of the query is determined to be the purchase of goods or services, the process may be reconfigured to emphasize commercial or converting material. This environment may be accomplished through the use of rules that persist over time and do not consider variables such as the intent of the query, or they may be dynamic so that the process flow is modified on a query-by-query basis.

This section of PETROPOULOS discloses that if a query is determined to be focused on educational research, the process of finding search results may be configured to promote non-commercial material. If the intent of the query is determined to be the purchase of goods or services, the process may be reconfigured to emphasize commercial or converting material. While this section of PETROPOULOS discloses that it may be determined if a query is a commercial query, this section of PETROPOULOS does not disclose determining whether one or more terms of the query, in any particular order, matches a commercial query pattern in a list of commercial query patterns. In fact, this section of PETROPOULOS does not disclose a list at all. Nowhere in this section, or elsewhere, does PETROPOULOS disclose or suggest determining, by a processor, whether a query is a commercial query by determining whether one or more terms of the query, in any particular order, matches a commercial query pattern in a list of commercial query patterns, and identifying, by the processor, the query as a commercial query when the one or more terms of the query, in any particular order, matches the commercial query pattern in the list of commercial query patterns, as recited in amended claim 1.

At paragraph 0080, PETROPOULOS discloses:

Converting queries (keywords), and the URLs (documents) for which they converted, may be submitted by various sources, including site owners, service providers, or other interested parties. The recipient of the data would aggregate converting Query-URL pairs into a database that would be used to store and process those records for use in responding to future queries that match historical queries in the database. The recipient would typically be a search engine that would have rules for accepting, processing, and using the data. The recipient could also be a third party that would distribute the data in either its raw form or, after processing the data, according to the rules of the downstream partner(s) to whom the data is provided.

This section of PETROPOULOS discloses aggregating converting query – URL pairs into a database used to store and process those records for use in responding to future queries that

match historical queries in the database. Matching queries to historical queries in a database is in no way equivalent to determining whether one or more terms of the query, in any particular order, matches a commercial query pattern in a list of commercial query patterns. This section of PETROPOULOS does not disclose or suggest identifying the query as a commercial query when the one or more terms of the query, in any particular order, matches the commercial query pattern in the list of commercial query patterns. Put another way, PETROPOULOS's matching queries to historical queries in a database is not performed for the purpose of determining whether the queries are commercial. Instead, the records of PETROPOULOS are used in responding to future queries that match historical queries in the database. Nowhere in this section, or elsewhere, does PETROPOULOS disclose or suggest determining, by a processor, whether a query is a commercial query by determining whether one or more terms of the query, in any particular order, matches a commercial query pattern in a list of commercial query patterns, and identifying, by the processor, the query as a commercial query when the one or more terms of the query, in any particular order, matches the commercial query pattern in the list of commercial query patterns, as recited in amended claim 1.

At paragraph column 13, line 58 – column 14, line 11, THOMAS discloses:

As mentioned above, in a preferred embodiment of the present invention, the search engine back-end (i.e., IPIS 106 application) is a C++ application written for the Windows NT™ environment. Referring to FIG. 4, a block diagram illustrating the software architecture of the IPIS 106 application is shown. In a preferred embodiment, the IPIS 106 application is multi-threaded. That is, the program execution environment interleaves instructions from multiple independent execution "threads." The multi-threaded IPIS 106 application thus allows multiple instances of each component (thread) to run simultaneously, on the same computer or in a distributed fashion, thereby increasing the throughput of the monitoring system 100 (i.e., allows monitoring for multiple clients to be done simultaneously). The threads of the IPIS 106 application include a queue thread 402, an URL thread 404, a database thread 406, an archive thread 408, and a contact thread 410.

The queue thread 402 performs step 306 as described above with reference to FIG. 3. That is, the queue thread is responsible for searching and finding potential URL's from the available search engines (meta search mode).

This section of THOMAS discloses a multi-threaded application that allows multiple instances of each thread to run simultaneously, on the same computer or in a distributed fashion, thereby allowing monitoring for multiple clients to be done simultaneously. This section of THOMAS further discloses that the queue thread is responsible for searching and finding potential URLs from available search engines. This section of THOMAS has nothing to do with identifying a query as a commercial query when one or more terms of the query, in any particular order, matches the commercial query pattern in the list of commercial query patterns. Nowhere in this section, or elsewhere, does THOMAS disclose or suggest determining, by a processor, whether a query is a commercial query by determining whether one or more terms of the query, in any particular order, matches a commercial query pattern in a list of commercial query patterns, and identifying, by the processor, the query as a commercial query when the one or more terms of the query, in any particular order, matches the commercial query pattern in the list of commercial query patterns, as recited in claim 1. In fact, this section of THOMAS has nothing to do with determining whether a query is commercial at all.

At column 16, lines 55-65, THOMAS discloses:

For example, a column 604 contains the URL of the offending Web site 120 or FTP site 114. A column 606, 608, and 610 would contain the title of the URL, a description, and any electronic mail addresses, respectively, as extracted from the page by the database thread 406 during the operation of the monitoring system 100. A column 612 would contain the contact information for the URL registrant (i.e., street address, telephone number, fax number, etc.) as gathered by the contact thread 410. Thus, page 600 is a standard report page that may be generated for every client of the monitoring organization regardless of the search criteria or the client's form of intellectual property or disparagement concerns.

This section of THOMAS discloses a standard report page that contains the URL of an offending web page, the title of the URL, a description, and any electronic mail addresses as extracted from the page by the database thread during operation of the monitoring system.

This section of THOMAS has nothing to do with identifying a query as a commercial query when one or more terms of the query, in any particular order, matches the commercial query pattern in the list of commercial query patterns. Nowhere in this section, or elsewhere, does THOMAS disclose or suggest determining, by a processor, whether a query is a commercial query by determining whether one or more terms of the query, in any particular order, matches a commercial query pattern in a list of commercial query patterns, and identifying, by the processor, the query as a commercial query when the one or more terms of the query, in any particular order, matches the commercial query pattern in the list of commercial query patterns, as recited in claim 1. In fact, this section of THOMAS has nothing to do with determining whether a query is commercial at all.

For at least the foregoing reasons, Applicants submit that claim 1 is patentable over PETROPOULOS and THOMAS, whether taken alone or in any reasonable combination.

Claims 3-8 depend from claim 1. Therefore, these claims are patentable over PETROPOULOS and THOMAS, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1.

Claims 9-11 recite features similar to, yet possibly of different scope than, features recited above with respect to claim 1. Therefore, claims 9-11 are patentable over PETROPOULOS and THOMAS, whether taken alone or in any reasonable combination, for reasons similar to the reasons given above with respect to claim 1.

Claims 46 and 47 depend from claim 9. Therefore, these claims are patentable over PETROPOULOS and THOMAS, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 9.

Claims 48 and 49 depend from claim 10. Therefore, these claims are patentable over PETROPOULOS and THOMAS, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 10.

Claims 50 and 51 depend from claim 11. Therefore, these claims are patentable over PETROPOULOS and THOMAS, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 11.

In light of the above, Applicants request reconsideration and withdrawal of the rejection of claims 1, 3-11, and 46-51 under 35 U.S.C. § 103(a) based on PETROPOULOS and THOMAS.

In view of the foregoing amendments and remarks, Applicants respectfully request entry of the present amendment and the timely allowance of the pending claims.

Applicants respectfully request that the Examiner enter the proposed amendment because the proposed amendment places the application in better condition for allowance and appeal.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

HARRITY & HARRITY, LLP

By: /Meagan S. Walling, Reg. No. 60,112/  
Meagan S. Walling  
Registration No. 60,112

Date: March 11, 2009

11350 Random Hills Road  
Suite 600  
Fairfax, Virginia 22030  
(571) 432-0800

Customer Number: 44989